

SENATE BILL 1793

By Haile

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 10 and Title 49, Chapter 6, relative to voluntary student expression of religious viewpoints in public schools.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Religious Viewpoints Antidiscrimination Act".

SECTION 2. Tennessee Code Annotated, Title 49, Chapter 6, is amended by adding the following as a new Part 18 thereto:

49-6-1801. An LEA shall treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the LEA treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject and may not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

49-6-1802.

(a) To ensure that an LEA does not discriminate against a student's publicly stated voluntary expression of a religious viewpoint, if any, and to eliminate any actual or perceived affirmative school sponsorship or attribution to the LEA of a student's expression of a religious viewpoint, if any, an LEA shall adopt a policy that includes the establishment of a limited public forum for student speakers at all school events at which a student is to publicly speak. The policy regarding the limited public forum shall also require the LEA to:

(1) Provide the forum in a manner that does not discriminate against a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject;

(2) Provide a method, based on neutral criteria, for the selection of student speakers at school events and graduation ceremonies;

(3) Ensure that a student speaker does not engage in speech that is obscene, vulgar, offensively lewd, indecent or promotes illegal drug use; and

(4) State, in writing, orally, or both, that the student's speech does not reflect the endorsement, sponsorship, position, or expression of the LEA.

(b) The LEA disclaimer required by subdivision (a)(4) shall be provided at all graduation ceremonies. The LEA shall also provide the disclaimer at any other event in which a student speaks publicly for as long as a need exists to dispel confusion over the LEA's nonsponsorship of the student's speech.

(c) Student expression on an otherwise permissible subject may not be excluded from the limited public forum because the subject is expressed from a religious viewpoint.

49-6-1803. Students may express their beliefs about religion in homework, artwork, and other written and oral assignments free from discrimination based on the religious content of their submissions. Homework and classroom assignments shall be judged by ordinary academic standards of substance and relevance and against other legitimate academic concerns identified by the LEA. Students may not be penalized or rewarded on account of the religious content of their work.

49-6-1804. Students may organize prayer groups, religious clubs, or other religious gatherings before, during, and after school to the same extent that students are permitted to organize other noncurricular student activities and groups. Religious

student groups shall be given the same access to school facilities for assembling as is given to other noncurricular groups without discrimination based on the religious content of the students' expression. If student groups that meet for nonreligious activities are permitted to advertise or announce meetings of their groups, the LEA may not discriminate against groups that meet for prayer or other religious speech. An LEA may disclaim school sponsorship of noncurricular groups and events in a manner that neither favors nor disfavors groups that meet to engage in prayer or religious speech.

49-6-1805. An LEA shall adopt and implement a local policy regarding a limited public forum and voluntary student expression of religious viewpoints. If an LEA voluntarily adopts and follows the model policy governing voluntary religious expression in public schools as provided by § 49-6-1806, the LEA shall be in compliance with this part.

49-6-1806. For the purposes of this part, "model policy" means a local policy adopted by an LEA that is substantially identical to the following:

ARTICLE I

STUDENT EXPRESSION OF RELIGIOUS VIEWPOINTS

The LEA shall treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the LEA treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject and may not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

ARTICLE II

STUDENT SPEAKERS AT NONGRADUATION EVENTS

(a)

(1) The LEA shall create a limited public forum for student speakers at all school events at which a student is to speak publicly. For each speaker, the LEA shall set a maximum time limit reasonable and appropriate to the occasion. Student speakers may introduce:

(A) Football games;

(B) Any other athletic events designated by the LEA;

(C) Opening announcements and greetings for the school day; and

(D) Any additional events designated by the LEA, which may include assemblies and pep rallies.

(2) The forum shall be limited in the manner provided by this policy.

(b)

(1) Only students in the highest two (2) grade levels of the school and who hold one (1) of the following positions of honor based on neutral criteria are eligible to use the limited public forum:

(A) Student council officers;

(B) Class officers of the highest grade level in the school;

(C) Captains of the football team; and

(D) Other students holding positions of honor as the LEA may designate.

(2) An eligible student shall be notified of the student's eligibility, and a student who wishes to participate as an introducing speaker shall submit such student's name to the student council or other designated body during an announced period of not less than three (3) days. The

announced period may be at the beginning of the school year, at the end of the preceding school year so student speakers are in place for the new year, or, if the selection process will be repeated each semester, at the beginning of each semester or at the end of the preceding semester so speakers are in place for the next semester. The names of the volunteering student speakers shall be randomly drawn until all names have been selected, and the names shall be listed in the order drawn. Each selected student will be matched chronologically to the event for which the student will be giving the introduction. Each student may speak for one (1) week at a time for all introductions of events that week, or rotate after each speaking event, or otherwise as determined by the LEA. The list of student speakers shall be chronologically repeated as needed, in the same order. The LEA may repeat the selection process each semester rather than once a year.

(c) The subject of the student introductions shall be related to the purpose of the event and to the purpose of marking the opening of the event, honoring the occasion, the participants, and those in attendance, bringing the audience to order, and focusing the audience on the purpose of the event. The subject shall be designated, a student shall stay on the subject, and the student may not engage in speech that is obscene, vulgar, offensively lewd, indecent or promotes illegal drug use. The LEA shall treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner that the LEA treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject and may not discriminate against

the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

(d) For as long as there is a need to dispel confusion over the nonsponsorship of the student's speech, at each event in which a student will deliver an introduction, a disclaimer shall be stated in written or oral form, or both, such as: "The student giving the introduction for this event is a volunteering student selected on neutral criteria to introduce the event. The content of the introduction is the private expression of the student and does not reflect the endorsement, sponsorship, position, or expression of the LEA."

(e) Nothing in this policy eliminates the practice of having students, regardless of grade level, such as captains of various sports teams, student council officers, class officers, homecoming kings and queens, prom kings and queens, and the like, address school audiences in the normal course of their respective positions. The LEA shall create a limited public forum for the speakers and shall treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the LEA treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject and may not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

ARTICLE III

STUDENT SPEAKERS AT GRADUATION EVENTS

(a) For graduation ceremonies the LEA shall create a limited public forum consisting of an opportunity for a student to speak to begin, and another student to speak to end, graduation ceremonies. For each speaker, the LEA shall set a

maximum time limit reasonable and appropriate to the occasion. The forum shall be limited in the manner provided by this policy.

(b)

(1) Only students who are graduating and who hold one (1) of the following neutral criteria positions of honor shall be eligible to use the limited public forum:

(A) Student council officers;

(B) Class officers of the graduating class;

(C) The top three (3) academically ranked graduates; or

(D) A shorter or longer list of student leaders as the LEA may designate.

(2) A student who otherwise has a speaking role in the graduation ceremonies is ineligible to give the opening and closing remarks. The names of the eligible volunteering students shall be randomly drawn. The first name drawn shall give the opening and the second name drawn shall give the closing.

(c) The topic of the opening and closing remarks shall be related to the purpose of the graduation ceremony and to the purpose of marking the opening and closing of the event, honoring the occasion, the participants, and those in attendance, bringing the audience to order, and focusing the audience on the purpose of the event.

(d)

(1) In addition to the students giving the opening and closing remarks, certain other students who have attained special positions of

honor based on neutral criteria, including the valedictorian, shall have speaking roles at graduation ceremonies.

(2) For each speaker, the LEA shall set a maximum time limit reasonable and appropriate to the occasion and to the position held by the speaker. For this purpose, the LEA shall create a limited public forum for students to deliver their addresses. The subject of their addresses shall be related to the purpose of the graduation ceremony, marking and honoring the occasion, honoring the participants and those in attendance, and the student's perspective on purpose, achievement, life, school, graduation, and looking forward to the future. The subject shall be designated for each student speaker, the student shall stay on the subject, and the student may not engage in speech that is obscene, vulgar, offensively lewd, indecent or promotes illegal drug use. The LEA shall treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the LEA treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject and may not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

(e) A written disclaimer shall be printed in the graduation program that provides as follows:

The students who will be speaking at the graduation ceremony were selected based on neutral criteria to deliver messages of the students' own choices. The content of each student speaker's message is the private expression of the individual student and does not reflect any

position or expression of the LEA or the board of trustees, or the LEA's administration, or employees of the LEA, or the views of any other graduate. The contents of these messages were prepared by the student volunteers, and the LEA refrained from any interaction with student speakers regarding the student speakers' viewpoints on permissible subjects.

ARTICLE IV

RELIGIOUS EXPRESSION AND PRAYER IN CLASS ASSIGNMENTS

A student may express the student's beliefs about religion in homework, artwork, and other written and oral assignments free from discrimination based on the religious content of the student's submission. Homework and classroom work shall be judged by ordinary academic standards of substance and relevance and against other legitimate pedagogical concerns identified by the school. Students may not be penalized or rewarded on account of religious content. If a teacher's assignment involves writing a poem, the work of a student who submits a poem in the form of a prayer (for example, a psalm) should be judged on the basis of academic standards, including literary quality, and not be penalized or rewarded on account of its religious content.

ARTICLE V

ORGANIZED PRAYER GROUPS AND ACTIVITIES

(a) Students may organize prayer groups, religious clubs, and other religious gatherings before, during, and after school to the same extent that students are permitted to organize other noncurricular student activities and groups. Religious groups shall be given the same access to school facilities for assembling as is given to other noncurricular groups, without discrimination based on the religious content of the group's expression.

(b) If student groups that meet for nonreligious activities are permitted to advertise or announce the groups' meetings, for example, by advertising in a student newspaper, putting up posters, making announcements on a student activities bulletin board or public address system, or handing out leaflets, school authorities may not discriminate against groups that meet for prayer or other religious speech.

(c) School authorities may disclaim sponsorship of noncurricular groups and events; provided, they administer the disclaimer in a manner that does not favor or disfavor groups that meet to engage in prayer or other religious speech.

SECTION 3. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it, and shall apply beginning in the 2014-2015 school year and each school year thereafter.